



**US Army Corps
of Engineers**

Omaha District

PUBLIC NOTICE

Application No: 2004-10116

Applicant: U.S. Army Corps of Engineers, Omaha District

Waterway: Missouri River & Desoto Lake

Issue Date: February 23, 2004

Expiration Date: March 15, 2004

21 DAY NOTICE

Reply To:

NEBRASKA REGULATORY OFFICE – WEHRSPANN

8901 SOUTH 154TH STREET, SUITE 1, OMAHA, NEBRASKA 68138-3621

JOINT PUBLIC NOTICE: This public notice is issued jointly by the U.S. Army Corps of Engineers, Omaha District, the Nebraska Department of Environmental Quality (NDEQ), P.O. Box 98922, State House Station, Lincoln, Nebraska 68509, and the Iowa Department of Natural Resources, 502 E 9th Street, Des Moines, Iowa 50319. They will review the proposed project for state certification in accordance with the provisions of Section 401 of the Clean Water Act. NDEQ and IDNR hereby incorporate this public notice as its own public notice and procedures by reference thereto. For the purposes of the NDEQ and IDNR, their public notice will expire 30 days from the issue date shown above.

AUTHORITY: Section 404 of the Clean Water Act (33 USC 1344).

APPLICANT: Mr. John Remus, U.S. Army Corps of Engineers, 106 South 15th Street, Omaha, Nebraska 68102.

PROJECT LOCATION: The project will be completed on the left descending bank of the Missouri River at approximately river miles 644 and 642. The north chute is located in Section 22, Township 18 North, Range 12 East, Washington County, Nebraska. The south chute is located in Section 36, Township 17 North, Range 12 East, Washington County, Nebraska.

PROJECT DESCRIPTION: The work will include the following: (Approx. quantities)

The project involves construction (by mechanical excavation methods) of two restoration chutes (north chute: 1,172 LF and south chute: 300 LF), with a bottom width of 100 feet. The side slopes would be constructed at 1v on 2h. Both inlet structures will be constructed through an existing rock filled revetment. The outlet of the south chute will be constructed through an existing rock filled revetment. The excess excavation will be placed on an upland site out of the way of any wetland areas. The project includes the following: 56,500 cubic yards of excavation (north chute: 42,200 CY and south

chute: 14,400 CY), removal of 610 cubic yards of existing stone (north chute: 270 CY and south chute: 340 CY). The stone removed from the revetments will be placed in the inlet area of the north and south chutes. The project will also include seeding and mulching of disturbed areas.

PROJECT PURPOSE: The purpose of this project is to restore a portion of the fish and wildlife habitat that has been and will be lost due to the impacts of the Bank Stabilization and Navigation Project and Pick-Sloan programs and to comply with the Biological Opinion. The project is needed in order to allow the Federal Government to meet its obligations on the Missouri River with respect to all authorized project purposes and the endangered act.

The Corps has been involved in formal and informal consultation with the U.S. Fish and Wildlife Service (Service) relative to the authorized projects mentioned above either individually, or collectively since 1989. The current consultation on Corps activities is an ecosystem-based consultation across all authorized projects that continue to operate on the Missouri River. This one, single, comprehensive biological opinion is meant to provide the Corps greater opportunity and flexibility to address species needs under the combined project authorities. Consultation has recently concluded, and the Service has prepared a final biological opinion (BiOp) for the Missouri River (December 2003). The BiOp requires the Corps to reach 8% (1,700 acres of 19,565 acres) of the total shallow-water habitat goals by 2004 in order to meet recommendations set forth under the Habitat Restoration/Creation/Acquisition Reasonable and Prudent Alternative (RPA) IV of the BiOp. Also, under Flow Augmentation RPA II, the FWS calls for The Corps to implement a spring flow from Gavins Point Dam of 17.5 Kcfs (initial target) above full service navigation level once every 3 years, and annually, summer flows as low as 21Kcfs through the months of July and August. Lower flows will also increase slack water habitat for young-of-year pallid sturgeon and native river fish and improve recruitment potential, as well as provide nesting and foraging habitat for least terns and piping plovers.

It is allowable under the BiOp that the Corps enters partnerships where it believes it is necessary to implement these RPA's in good faith. Currently, the Corps will meet the total shallow water habitat requirements called for in 2004 with current projects that have already been implemented under the purview of its authorities. However, with respect to flows, the Corps must continue to meet its obligation to provide minimum service flows. In a recent agreement between the Corps and the Service, the Corps will be allowed a reprieve in its 2004 obligation of flow reductions by providing additional shallow water habitat above those already planned for 2004. By partnering with the Service, the Corps proposes to provide an open water connection to the Desoto Bend oxbow lake area at both the upstream and downstream ends from the 1 July through 31 August 2004. This partnering proposal will allow the Corps to meet all authorized project purposes on the Missouri River, and also fulfill its requirements under the Endangered Species Act.

SPECIAL AQUATIC SITES: The excavation of the north chute will impact approximately 2.70 acres of wetlands. The south chute will only have impacts to the Missouri River and Desoto Lake.

CULTURAL RESOURCES: The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of

Historic Places and its current supplements and no property listed or proposed for listing in the Register is located in the project area. This is the extent of our knowledge about historic properties in the permit area at this time. However, we will evaluate input by the State Historic Preservation Officer and the public in response to this public notice, and may require a reconnaissance survey of the project area to check for unknown historic or prehistoric properties, if warranted.

ENDANGERED SPECIES: Pursuant to the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

FLOODPLAIN: This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

WATER QUALITY CERTIFICATION: Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

PUBLIC INTEREST REVIEW: The decision whether to issue the Corps' permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed/completed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against their reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R. Part 230).

COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and Local agencies and officials, Indian Tribes and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

Anyone whose interests may be affected by the proposed/completed work is invited to submit favorable or unfavorable written comments to the Nebraska Regulatory Office – Wehrspann, 8901 South 154th Street, Suite 1, Omaha, NE 68138-3621. The District Engineer is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic system's functional values, cumulative and secondary effects and endangered species. All comments received will be considered public information; copies of all comments, including names and addresses of commentors, may be provided to the applicant unless confidentiality is requested. Comments must be submitted on or before the expiration date (located at the top of the first page) of this notice to be considered in the subsequent actions on this application.

PUBLIC HEARING: Before the expiration date of this notice, anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state the reason(s) for holding a public hearing. If the District Engineer determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location.

ADDITIONAL INFORMATION: Additional information about this application may be obtained by writing to Matt Wray at the address shown on page one or by calling him at (402) 896-0896. You can also e-mail him at matt.t.wray@usace.army.mil.

REQUEST TO POSTMASTERS: Please post this notice conspicuously and continuously until the expiration date specified at the top of page one.

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